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HAROLD B. WILLEY

IN THE
Supreme Court of the United States

OCTOBER TERM, 1953

NO. 228

EMANUEL MAZER AND WILLIAM ENDICTER, d/b/a JUNE
LAMP MANUFACTURING COMPANY,

Petitioners,

VS.

BENJAMIN STEIN AND RENA STEIN, d/b/a REGLOR
OF CALIFORNIA,

Respondents.

Reply Brief for Respondents

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We are moved to file this brief to reply to the new point raised in Petitioners' reply brief that "the present copyright law cannot possibly mean to manufacture in quantity" (p. 3). The fact is that Congress framed the Copyright Code specifically to cover works manufactured in quantity. Section 12 of the Code (Title 17, U.S. Code) is entitled "Works Not Reproduced for Sale". With respect to works of art, this Section permits registration upon the basis "of a photograph or other identifying reproduction thereof". Section 13 of the Code—"Deposit of Copies After Publication"—provides that "two complete copies" must be deposited to support the registration where there

has been publication. Surely, when Congress has expressly distinguished between "Works Not Reproduced for Sale" and other works—and provided registration procedures for both—it cannot be said that the law is confined to works not manufactured in quantity.

Other provisions of the Copyright Code likewise specifically refer to "copies" in the plural, *e.g.* Section 10 (notice to be placed on "each copy"); Section 19 (notice on "copies of works specified in subsections (f) to (k), inclusive, of section 5 of this title").

Petitioners' contentions that copyright does not cover a work reproduced in quantity are not raised in the answer, were not considered by either court below, and are not mentioned in the petition herein.

We respectfully submit that the judgment below should be affirmed.

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December 1, 1953.

APPENDIX

1. Title 17, United States Code (Copyrights):

§ 12. Works Not Reproduced for Sale.—Copyright may also be had of the works of an author, of which copies are not reproduced for sale, by the deposit, with claim of copyright, of one complete copy of such work * * * ; or of a photograph or other identifying reproduction thereof, if it be a work of art or a plastic work or drawing. * * *

2. Title 17, United States Code (Copyrights):

§ 13. Deposit of Copies After Publication; Action or Proceeding for Infringement.—After copyright has been secured by publication of the work with notice of copyright as provided in section 10 of this title, there shall be promptly deposited in the copyright office * * * , two complete copies of the best edition thereof then published * * * ; or if the work is not reproduced in copies for sale there shall be deposited the copy, print, photograph, or other identifying reproduction provided by section 12 of this title * * * .”